

Decision 06-02-029 February 16, 2006

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the County of Kern for an Order authorizing construction of a crossing at separated grades between Seventh Standard Road and the tracks of the Union Pacific Railroad Company, sometimes referred to as the "Seventh Standard Road Overhead."  
[PUC No. 001B-305.90-A]

Application 05-06-023  
(Filed June 14, 2005)

**OPINION AUTHORIZING CONSTRUCTION OF OVERHEAD CROSSING**

**I. Summary**

This opinion authorizes the County of Kern (County) to construct at Seventh Standard Road a grade-separated overhead crossing over the tracks of the Union Pacific Railroad Company's (UP) Fresno-Bakersfield Main Line and to close the existing at-grade crossing (001B-305.90). The application is unopposed. This proceeding is closed.

**II. Background**

On June 14, 2005, County, in cooperation with the Greater Bakersfield Separation of Grade District, filed Application 05-06-023 requesting authorization to construct at Seventh Standard Road a grade-separated overhead crossing over the tracks of UP's Fresno-Bakersfield Main Line, formerly owned by Southern Pacific Transportation Company (SPT), near Bakersfield in Kern County.

County proposes to construct a grade-separated overhead crossing, consisting of a three-span reinforced box girder concrete structure, which will carry Seventh Standard Road over two existing tracks and two future tracks. The

total length of the bridge will be approximately 208 feet, measured back-to-back of abutments. Abutments and bents will be of reinforced concrete. Four 12-foot vehicular lanes, one eastbound left turn lane and one sidewalk, will be carried on the proposed overhead structure across the railroad with room for two additional travel lanes. Total width of the bridge structure will be 104 feet 10 inches. During construction, vehicular traffic will be carried on the present traveled way and across the present Seventh Standard Road at-grade crossing; rail traffic will use the existing tracks during construction. Upon completion of the grade-separated overhead crossing, vehicular traffic will be rerouted and the existing Seventh Standard Road at-grade crossing will be closed. The crossing will be barricaded, and pavement approaching and between the tracks will be removed.

The Seventh Standard Road overhead crossing project ranked number 28 in the 1998-1999 Grade Separation Priority List of Decision (D.) 98-06-072, dated June 18, 1998, and ranked number 27 in the 1999-2000 Grade Separation Priority List of D.99-06-035, dated June 10, 1999, both related to Order Instituting Investigation (I.) 97-07-014. This investigation is a two-year proceeding; in the second year, the Commission revised the priority list based upon allocations in the first year. The California Transportation Commission allocated this project \$1,420,257 in fiscal year 1999-2000 and \$2,339,743 in fiscal year 2000-2001, for a total allocation of \$3,760,000.

The Commission previously authorized construction of this project in 1997 by D.97-03-044. The authorization was extended by D.02-08-056 but lapsed on September 23, 2004. The application now before us seeks to renew the authorization. Consistent with Pub. Util. Code §§ 1202.1(a), (b), and (c), County sought an expedited interim order authorizing construction, with a final decision

apportioning costs to be issued later. UP filed a protest to the application on July 14, 2005, contending that the proposed bridge was insufficient to accommodate future tracks. In response to UP's concerns, County redesigned the bridge to UP's satisfaction to accommodate two future tracks. The parties executed a new construction and maintenance agreement for the project resolving cost allocation issues as well. Thereupon, UP withdrew its protest. County and UP have stipulated to the entry of this final order which should be effective immediately.

### **III. Discussion**

County is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Sections 21000, et seq. County has determined that this project, the elimination of an existing at-grade crossing, is categorically exempt from the reporting requirements of CEQA under PR Code Section 21080.13.

This Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's exemption determination. We also find that grade separations which eliminate existing at-grade crossings are statutorily exempt from the requirements of CEQA pursuant to PR Code Section 21080.13 and CEQA Guidelines Section 15282(h). The existing Seventh Standard Road at-grade crossing and adjacent areas have been inspected by the Commission's Consumer Protection and Safety Division—Rail Crossings Engineering Section staff. After reviewing the need for and safety of the proposed Seventh Standard Road Overhead, staff recommends that County's request be granted.

The application was found to be in compliance with the Commission's filing requirements, including Rule 38 of the Commission's Rules of Practice and

Procedure, which relates to the construction of public highway crossings and separations over a railroad. A site map and drawing of the proposed overhead crossing structure are attached as Appendix A to this decision.

#### **IV. Categorization and Need for Hearings**

In Resolution ALJ 176-3154, dated June 16, 2005, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were not necessary. A protest to the Application was withdrawn, and no other protests were received. Given this status, a public hearing is not necessary and it is not necessary to alter the determinations made in resolution ALJ 176-3154.

#### **V. Comments on Draft Decision**

Since this proceeding is uncontested and we grant the relief requested, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

#### **VI. Assignment of Proceeding**

Dian M. Grueneich is the Assigned Commissioner and Bertram D. Patrick is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. Notice of the Application was published in the Commission's Daily Calendar on June 16, 2005. UP filed its protest on July 14, 2005. County and UP have stipulated to the entry of this final order. UP has withdrawn its protest. A public hearing is not necessary.

2. County requests authority under Pub. Util. Code §§ 1201-1205 to construct a grade-separated overhead crossing at Seventh Standard Road over the tracks of UP's Fresno-Bakersfield Main Line in Kern County.

3. The Seventh Standard Road grade-separated overhead crossing will improve traffic circulation and reduce traffic impacts from rail freight traffic between Fresno and Bakersfield.

4. This grade-separated overhead crossing is required to carry vehicular traffic over the heavily used UP railroad freight line.

5. Public convenience, necessity, and safety require construction of the proposed grade-separated overhead crossing.

6. Upon completion of the Seventh Standard Road overhead crossing and its opening to vehicular traffic, the existing at-grade crossing will be closed. Specifically, barricades should be installed on both sides of the existing crossing and pavement should be removed on the approaches to and between the existing tracks.

7. County is the lead agency for this project under CEQA.

8. The Commission is a responsible agency for this project under CEQA, and has reviewed and considered the lead agency's exemption determination.

### **Conclusions of Law**

1. The Application is uncontested and a public hearing is not necessary.

2. County has met the requirements of Pub. Util. Code §§ 1201-1205.

3. County's Application meets the filing requirements of the Commission's Rules of Practice and Procedures.

4. Grade separation projects, such as this, which eliminate existing at-grade crossings, are exempt from the requirements of CEQA pursuant to PR Code Section 21080.13 and CEQA Guidelines Section 15282(h).

5. The application should be granted as set forth in the following final order.

### **O R D E R**

**IT IS ORDERED** that:

1. County of Kern (County), in cooperation with the Greater Bakersfield Separation of Grade District, is authorized to construct at Seventh Standard Road a grade-separated overhead crossing over the tracks of Union Pacific Railroad Company's (UP) Fresno-Bakersfield Main Line in Kern County, at the location and substantially as shown by plans attached to this order as Appendix A. It shall be identified as Crossing 001B-305.90-A.

2. Upon completion of the overhead crossing and its opening to vehicular traffic, the existing Seventh Standard Road at-grade Crossing 001B-305.90 shall be closed by barricades, and pavement on the approaches to and between the tracks shall be physically removed.

3. Clearances shall be in accordance with General Order (GO) 26-D; except that during the period of construction, a clearance of not less than 21 feet 0 inch above the top of rail shall be authorized and UP shall be authorized to operate with such reduced overhead clearance provided that instructions are issued by the railroad and filed with the Commission's Consumer Protection and Safety Division forbidding employees to ride on tops of cars beneath the structure.

4. County shall notify the Commission's Consumer Protection and Safety Division and UP at least 15, but not more than 30, days in advance of the date when the temporary impaired overhead clearance will be created.

5. Walkways shall conform to GO 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

6. Construction and maintenance costs shall be borne by County and UP in accordance with the Public Highway Overpass Agreement signed by the parties,

a copy of which shall be filed with the Commission's Consumer Protection and Safety Division prior to commencing construction.

7. Final construction drawings, approved by UP, shall be filed with the Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section, prior to commencing construction. Such final construction drawings shall be in substantial conformity with the plans attached as Appendix A to this decision.

8. Within 30 days after completion of the work under this order, County shall notify the Commission's Consumer Protection and Safety Division, Rail Crossings Engineering Section, in writing that the authorized work has been completed.

9. Upon completion of the project, County shall maintain the overhead structure, including all approaches thereto, roadway pavement, roadway drainage, landscaping, if any, lighting, and all other roadway facilities. UP at its expense shall maintain its tracks, roadbed, railroad drainage, and all other railroad facilities.

10. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity or safety so requires.

11. Application 05-06-023 is closed.

This order is effective today.

Dated February 16, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN

DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners